IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

WEDNESDAY, THE 11TH JULY 2007 / 20TH ASHADHA 1929

CRP.No. 235 of 2001(G)

TLB.911/1993 of T.L.B.,MANANTHODY

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REVN. PETITIONER/DECLARANT:

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1. SMT. N.SAROJINI AVVA,
   NEERVARAM ESTATE, KUPPATHODE.

2. N.R. ANIL KUMAR, RESIDING DO. DO.

3. N.R. SKAUNTHALA, RESIDING DO. DO.

4. N.R. AKSHAYA KUMAR, RESIDING DO. DO.

BY ADV. SRI.T.A.RAMADASAN

RESPONDENTS:

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1. THE TALUK LAND BOARD,
   NORTH WYNAD.

2. STATE OF KERALA, REP. BY
   CHIEF SECRETARY, SECRETARIAT,
   TRIVANDRUM.

R2 BY ADV. SRI. SHYSON P. MANGUZHA, GOVERNMENT PLEADER

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 11/07/2007 ALONG WITH CROP NO.247 OF 2001, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

CRP No. 235 OF 2001

CMP NO.471 OF 2001 IN CRP NO.235 OF 2001

DISMISSED

11.07.2007 SD/- PIUS C. KURIAKOSE, JUDGE.

PIUS C. KURIAKOSE, J.

C.R.P. Nos. 235 and 247 OF 2001

Dated this the 11th day of July, 2007

O R D E R

CRP 235 is filed by the declarant and CRP 247 is by a claimant. The petitioner declarant is aggrieved by the order of the Taluk Land Board,Mananthavady in TLB No. 911/73/Mtdy dt. 26.08.2000 under which after re-opening of the earlier order under Section 85 (9A) it has been held that 12.70 acres of land in Survey No.547/3, 547/4, 547/5 470/2 471/2 & 408 is not liable to be exempted and the petitioners are directed to surrender a total extent of 12.70 acres from out of their properties in survey No.538 of Panamaram Village. The reasons stated by the Taluk Land Board for deviating from its earlier decision that it is not proper to exempt the 12.70 acres made mention of in the order is that the exemption claimed in respect of those properties were not on the basis of registered lease deed though in the case of genuine assignments, there were registered lease deeds. The approach cannot be said to be wrong. But then there is genuineness in the grievance of the petitioner in CRP No.247 of 2001 who impugns the very same order on the reason that their claim was on the basis of a registered lease deed and a certificate of purchase issued by the Taluk Land Board on the basis of that registered lease deed. Annexure II produced along

with CMP No.502 of 2001 will show that the claim of the petitioners in CRP No.247 of 2001 is actually upheld by the Taluk Land Board. In the light of Annexure II the Taluk Land Board was not justified in including the property covered by the lease deed relied on in that CRP in the account of the petitioners in CRP No.235 of 2001. To that extent the impugned orders have to be set aside. The impugned orders will stand set aside to that extent. The land liable to be surrendered by the declarant will be an extent of 8.70 acres from out of total extent of 12.70 acres as detailed in the impugned order. In other words the property claimed by the petitioner in CRP No.235/01 shall be excluded from the account of the declarant.

There appears to be genuineness in the further grievance of the declarant that even if it was to be held that the declarant is holding excess land liable to be surrendered, the direction regarding the surrender should have been from out of the properties in respect of which exemption is now been denied. The Government Pleader Mr.Shyson would submit that the Taluk Land Board became obliged to direct surrender of another item only because the petitioners were not prepared to exercise any option. Mr.Sibi, counsel for the declarant submits that at least one more opportunity should be given to exercise right of option. Accordingly both the CRPs will stand allowed in part

holding that the total extent liable to be surrendered by the declarant is 8.70 acres and directing the Taluk Land Board to receive option, if any, filed by the declarant within six weeks from today and to pass fresh orders regarding the land to be surrendered on the basis of option so exercised.

PIUS C. KURIAKOSE, JUDGE

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